

TOWN OF MILFORD

Office of Community Development

Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects

Administrative Review



Date: February 10, 2022
To: Jason Plourde, Chair, Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2022-02: Andrea Kokko for the property located at Milford Tax Map 42, Lot 46, 116 Osgood Road - Variance Application (New Application)**

The applicant is before the Board of Adjustment seeking a seeking a Variance from the Milford Zoning Ordinance, Article V, Section 5.02.4.B to create a lot with less than the required 150 linear feet of frontage on a principle route of access on a Class V road or better for a property in Residential 'A' district not serviced by both municipal water and sewer. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 20.5 acres in area and contains an existing 7 bedroom, two-family house centrally located on the front portion of the property within the 30 foot front dimensional setback (built in 1900). A one-story barn is located behind said home. The property also contains a single story house located on northeastern portion of the property (built in 1910). Lastly, Chappell Farms LLC operates a forestry / lumber operation (agricultural use) with outdoor commercial parking and storage rental space on the subject property. Said agricultural and commercial uses have been previously vetted and subsequently approved by the Board of Adjustment (Case #37-09 – Expansion on non-conforming use) and Planning Board Case #20070948 – Minor Site Plan).
 - b. The property is primarily undeveloped with the middle section used for the forestry / lumber operation and rear portion for the active farm land. The property contains substantial wetland resources areas along the southern and eastern portions of the property. Great Brook runs the full length of the property along the southern property boundary.
 - c. The property is serviced by municipal water and private septic.
 - d. The parent property contains approximately 513 linear feet of frontage and accessed by three curb cuts on Osgood Road. The northerly curb cut serves the one-story house, pre-existing forestry and lumber operation, and secondary access for the two-family residence. The two southern curb cuts serve the two-family house.
 - e. The subject property is situated in an established residential area. To the west of the subject property is Zoned Residential 'R' and consists of single-family homes on properties varying in size (.34 acres and larger), Adams Field / Osgood Pond, and agricultural land. To the north the properties are zoned Residential 'A', and consist of single-family residences and Route 101A. To the south, the properties are Zoned Residential 'R' and include single-family residences and the Armory complex.
2. The applicant is seeking to subdivide 3.14 acres from the parent lot, Map 42, Lot 46 (totaling 20.5 acres) to create Tax Map 42, Lot 46-3. The proposed lot would have 408 feet of frontage on Osgood Road and be accessed from the existing paved driveway. The parent lot, Map 42 Lot 46 would have the remainder of 105 linear feet of frontage and be accessed via the existing two southerly curb cuts on Osgood Road. With the exception of frontage for the existing parent lot (Map 42, Lot 46), both lots would meet the minimum dimensional requirements for a parcel in the Residential "A" Zoning District (40,000 square feet and 150 feet of frontage) not serviced by municipal water and wastewater.

3. As stated in the Town's Development Regulations, the proposed subdivision will require the submittal of a subdivision application to and review/approval by the Planning Board.
4. Milford Zoning Ordinance, Article V, Section 5.02.4.B states that the minimum lot size and frontage for single-family residence and all other acceptable uses in the Residence "A" District not serviced by both municipal sewerage and water systems shall be a minimum of forty thousand (40,000) square feet in area with one hundred fifty feet (150') of frontage on a Class V or better road. In this instance, the relief sought to allow the 105 feet of frontage would require a Variance in compliance with the Town Zoning Ordinance.

Aerial Photos of Subject Property:



Street View Photos of Subject Property:



View Looking Southeast



View Looking Southeast - 1st Curb Cut and Both Residences



View Looking East – Two-Family Residence and 2nd Curb Cut



View Looking Northeast – Two-Family Residence and 3rd Curb Cut

View looking Northeast along Osgood Road





ZBA Application

MILFORD ZONING BOARD OF ADJUSTMENT

GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

Date Received:	TOWN OF MILFORD RECEIVED
Case Number:	
Date Complete:	JAN 21 2022
Hearing Date:	
Decision Date:	PB ZBA Office
Decision:	2022-021 2022 0082 app

PROPERTY INFORMATION

Street Address: 116 OSBOOD ROAD MILFORD, NH

Tax Map / Parcel #: 42146 Lot Size: 20.5

PROPERTY CURRENTLY USED AS

multi family property with

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: CARL E. SAWY CHAPPEL

Address: 116 OSBOOD RD MILFORD, NH 03055

City/State/Zip:

Phone: (603) 673-7878

Email: pappasgrety@gmail.com

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/REPRESENTATIVE

SAME AS OWNER

Name: ANDREA KOKKO CHAPPEL

Address: 498 ROUTE 135

City/State/Zip: MILFORD NH 03055

Email: ANDREA KOKKO@KOKKOREALTY.COM

Phone: (603) 801-5213 Cell: ()

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Andrea Kokko
Property Owner's signature

Date:

Zoning District (check one):

- Residence A
- Residence B Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

APPLICATION FEES

Application Fee: 11.00	\$75.00
Abutters Fee: \$4 x 11	47.08
Amount received:	
Date Received:	

Check _____ Cash _____
\$75.00 pd 1-21-22 #8754

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY

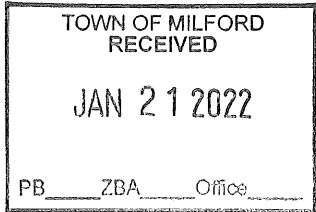
\$43.08 brought in
2-8-22



ZBA Application - Variance
MILFORD ZONING BOARD OF ADJUSTMENT

PROPERTY INFORMATION
Street Address: 116 Osgood Road Milford, NH 03055
Tax Map / Parcel #: 42/46
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article <u>5</u> Section <u>02.4 B</u>
Describe the variance you are requesting under the above section of the Ordinance. Landowner is seeking to create a new lot of record with less than 150 feet of road frontage.
Lot proposed would have 105 feet of road frontage for a 17.362 acre parcel.

Date Received: _____
 Case Number: 2022-01
 Application #: 2022
 Date Complete: _____
 Hearing Date: 2-17-22
 Decision Date: _____
 Decision: _____



General Criteria Section 10.01

Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.1

- Granting the Variance would not be contrary to the public interest because:
 The proposed road frontage is similar to lots in the immediate neighborhood, specifically lots 42-45, 42-16, 42-11, 42-12-2, 42-47-2 and 42-12-1. The existing road frontage is already a driveway entrance to the proposed new lot.
- If the Variance were granted, the spirit of the ordinance would be observed because:
 The property as it exists would not change with the exception of the one lot becoming two lots. There would be no developmental changes to the property as it exists. Surrounding properties (referenced above) have similar road frontage with the most recent subdivision having less than the this variance requests.
- Granting the Variance would do substantial justice because:
 The proposed subdivision would separate the existing residence from the existing log yard/business. With the exception of the road frontage, the proposed subdivision more than meets the criteria for a lot of record for both lots. Granting the variance would do substantial justice because it would create a lot of record similar to surrounding properties with road frontage less than 150 feet. In 2006 a subdivision for lot 42-47-2 was approved with 80 feet of road frontage for a 2.712 acre parcel.
- Granting the Variance would not diminish the value of surrounding properties because:
 A number of surrounding lots on the street do not have the 150 feet of road frontage. The best comparable example is 97 Osgood Road which has roughly 125 feet of road frontage but accesses approximately 12 acres of land. This is almost directly identical to what is being proposed with this lot. Additionally, the landscape of the property would not change therefore the surrounding properties would not be diminished. The value of surrounding properties would continue to hold the same value as exists now.
- Unnecessary Hardship:
This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.

MAP SHOWING 6
 LOTS REFERENCED
 IN SECTION 10.01
 SHOWING ROAD FRONTAGE



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

TOWN OF MILFORD
 RECEIVED
 JAN 21 2022
 PB _____ ZBA _____ Office _____

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:
i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because :
The proposed 105 feet of road frontage already has a driveway established which provides access to the parcel the applicant wishes to subdivide. There would be no changes to the makeup of the property once the subdivision was completed; ie: building of homes. The property would continue to exist in the same fashion as it does now. It does not negatively affect the neighborhood because several lots in the immediate area have less than the required 150 feet of frontage. Subdivision of nearby parcels has been allowed in recent years, specifically the subdivision for 42-47-2 which only has 80 feet of road frontage.
AND
ii. The proposed use is a reasonable one because:
The proposed road frontage is similar to neighboring properties, specifically lot 42-16 which is a large parcel of 12 acres with roughly 125 feet of road frontage. In addition lot 42-47-2 was created by subdivision in 2006 with only 80 feet of frontage. The proposed subdivision makes no changes to the property and does not affect the neighborhood. The variance would grant the division between residence and business.
(B) Explain how, if the criteria in paragraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a Variance is therefore necessary to enable a reasonable use of it:
Because of the placement of the residential home, the road frontage criteria prohibits the subdivision of the 20.5 acres currently in existence on the property without difficult lot line changes and special exceptions for setbacks.
(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:
1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:
Granting of the variance is in harmony with the general purpose and intent of the zoning ordinance because it does not diminish the surrounding properties and would keep within the spirit of the neighborhood. Furthermore, the variance requested is similar to other lots of record in the immediate neighborhood with road frontage less than 150 feet. The property to be subdivided has more than ample the land to meet the criteria for subdivision. The most recent subdivision that coincides with this request is the approval of lot 42-47-2 which was a 2.712 acre parcel with 80 feet of road frontage.
In addition, Variances may have extra criteria that must be met. This includes, but is not limited to: 6.03.5 Floodplain Management: The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.
ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition. A. A plan of the property and all buildings, drawn to scale, is required. B. A Building Permit Application as needed (to be determined by the building official.) C. Additional explanations, justification, abutters’ statements, letters, etc.

Chappell Farms originally started as a dairy farm and continued to operate as one under Carl and Sally Chappell until the late 1980's when Chappell Farms chose to participate in the Dairy Buy-Out program offered by the Federal Government. All of the dairy cows were sold, and Chappell Farms began selling firewood as their primary source of income.

Thus began the evolution of Chappell Farms from firewood sales to a logging and land clearing company. The farm has grown to become a working log yard, receiving, processing, and sending wood product materials.

Carl and Sally are seeking to subdivide the property to separate their personal residence from the back acreage where Chappell Farms operates. Their wish is to be able to sell the company operations and land to their sons, and keep their personal residence and land.

Members of the Zoning Board are welcome to visit the property to see first hand how the subdivision and lot line changes would look. Currently, the 105 feet of road frontage requested holds the driveway that is regularly used to access the land to be subdivided. Granting of the variance would not cause the makeup of the existing land to change as operations would proceed as they have been for many years.

Your consideration is greatly appreciated.

Attachment 1: Properties with less than the require 200 feet with the Residential R Zoning District and 150 within the Residential A Zoning District.

